

In the Matter of BETHLEHEM STEEL COMPANY and LOCAL 3144, UNITED
STEELWORKERS OF AMERICA, AFFILIATED WITH THE C. I. O.

Case No. 3-R-944.—Decided May 2, 1945

Mr. Gerald J. Reilly, of Bethlehem, Pa., for the Company.
Mr. Julian Bruce, of Lackawanna, N. Y., for the Union.
Miss Katharine Loomis, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 3144, United Steelworkers of America, affiliated with the C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Bethlehem Steel Company, Lackawanna, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. Said hearing was held at Buffalo, New York, on March 23, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing the Company moved to dismiss the petition on the ground that the unit petitioned for includes both salaried and hourly paid employees and is, therefore, inappropriate. Ruling on this motion was reserved for the Board. For reasons stated in Section III, *infra*, the motion is denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Bethlehem Steel Company, a Pennsylvania corporation, operates a plant at Lackawanna, New York, where it manufactures steel products.
61 N. L. R. B., No. 138.

During 1944 the aggregate value of raw materials used by the Company at its Lackawanna, New York, plant was in excess of \$60,000,000, of which more than 80 percent was delivered to the plant from points outside the State of New York. During the same period the Company manufactured at the Lackawanna, New York, plant finished products valued in excess of \$100,000,000, of which more than 80 percent was shipped to points outside the State of New York.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local 3144, United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's mill office employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all the mill office employees working under the jurisdiction of the general superintendent of mills at the Company's Lackawanna plant, excluding supervisory and confidential employees.

Both the Union and the Company are in agreement that all chief clerks and all clerks who act as confidential secretaries to department or mill superintendents and to the general foreman of the billet yard should be excluded. They are in disagreement, however, as to whether three employees, the bonus clerk in the billet yard, the order clerk in the billet yard, and the clerk in the B. P. department sharing the

¹ The Field Examiner reported that the Union submitted 41 application cards; that the names of 38 persons appearing on the cards were listed on the Company's pay roll of February 25, 1945, which contained the names of 63 employees in the appropriate unit, and that 39 cards were dated between September 1944 and February 1945, and two were undated.

chief clerk's work, should come within the category of confidential employees, the Company contending that they fall within this category and the Union asserting the contrary. In addition, the Company requests the exclusion of the bonus and order clerks in the billet yard on the ground that, as salaried employees, their interests are different from those who it concedes are properly part of an appropriate unit.

The bonus clerk in the billet yard receives information relative to the amount of steel worked on by each employee. He determines, by applying to the amount of work done a pay factor applicable to the type of work performed, the amount to be paid each employee. He also distributes pay checks to the employees in the billet yard. Because of the nature of his duties the bonus clerk has access to rates-of-pay schedules, the factor used in figuring steel tonnage, and the amount of pay which each employee in his department receives. The order clerk in the billet yard has charge of the order book. Because of the nature of his duties, he acquires information regarding the amount of steel that comes into the yard, inventories on hand, the various processes that the steel undergoes, and the final destination of finished products. The Company does not contend that this information is confidential except insofar as it is not to be divulged promiscuously. He also, at times, acts as paymaster in the yard. Although the record shows that these two clerks have access to important information, it also shows that such information in no instance relates directly to the Company's labor relations. Access to important information is not sufficient in itself to justify their exclusion.²

The Company's contention that salaried employees should not be included in a bargaining unit with hourly paid workers is based on the premise that the interests of these two groups are substantially different. The record, however, does not bear out this contention with respect to the bonus and audit clerks in the billet yard, both of whom are salaried employees. On the contrary, it shows that their interests are much the same as the hourly paid employees admittedly within the unit. Accordingly, we shall include them in the unit.

The clerk in the B. P. department who shares the chief clerk's work, unlike the other two clerks discussed, has access to correspondence of the superintendent of his department which deals with labor relations. In addition, he types the superintendent's answers to grievances of employees so that he learns of the Company's position on a particular grievance before it is made known to the employee concerned. We shall, therefore, exclude him from the unit.³

We find that all mill office employees working under the jurisdiction of the general superintendent of mills at the Company's Lackawanna,

² See *Matter of Creamery Package Manufacturing Company (Lake Mills Plant)*, 34 N. L. R. B. 108.

³ See *Matter of General Motors Corporation*, 53 N. L. R. B. 1096 at 1111.

New York, plant, including the bonus and order clerks in the billet yard, but excluding the clerk in the B. P. department who shares the chief clerk's work, all chief clerks and all clerks who act as confidential secretaries to department or mill superintendents and to the general foreman of the billet yard, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Bethlehem Steel Company, Lackawanna, New York, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Third Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Local 3144, United Steelworkers of America, C. I. O., for the purposes of collective bargaining.

⁴ We hereby grant the Union's request that it be designated on the ballot as its name appears in the Direction.